HEALTH FINANCE COMMISSION

Legislative Services Agency
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MEETING MINUTES

Meeting Date: **September 22, 1998**
Meeting Time: **10:00 A.M.**
Meeting Place: **State House, 200 W. Washington St., House Chambers**
Meeting City: **Indianapolis, Indiana**
Meeting Number: **4**

Members Present: Rep. Charlie Brown, Chairperson; Rep. William Crawford; Rep. Craig Fry; Rep. Rolland Webber; Rep. Mary Kay Budak; Rep. Robert Behning; Rep. Gloria Goeglein; Sen. Teresa Lubbers; Sen. Morris Mills; Sen. Marvin Riegsecker; Sen. Beverly Gard; Sen. Richard Worman; Sen. Earline Rogers; Sen. Mark Blade.

Members Absent: Rep. Brian Hasler; Rep. Susan Crosby; Rep. John Day; Rep. Win Moses; Rep. Vaneta Becker; Rep. Timothy Brown; Rep. David Frizzell; Rep. Nick Gulling; Sen. Steven Johnson, Vice-Chairperson; Sen. Joseph Zakas; Sen. Glenn Howard; Sen. Vi Simpson.

Chairman Brown called the meeting to order at 10:20 A.M. and announced two meetings of the Commission on September 30, 1998 in Evansville and on October 20, 1998 at Ivy Tech State College in Gary.

Nonprofit Hospital Conversion Transactions

Rep. Brown asked Attorney General Jeff Modisett to begin his testimony. Mr. Modisett distributed the following three handouts to the Commission:

(a) Proposed amendments to HB 1334-1998.

(b) An article regarding hospital mergers from the Indianapolis Star.
(c) A list of members of the Conversion of Not-For-Profit Hospitals Task Force Committee.[1]

Mr. Modisett explained the history of HB 1334 during the 1998 legislative session and stated that the main interest of the Attorney General's office is the protection of charitable assets of the nonprofit hospital in the transaction. Mr. Modisett discussed the charitable benefits plan which is required for all nonprofit hospitals, but is not required of for-profit hospitals after the for-profit acquires the nonprofit hospital. Mr. Modisett stated that there is currently no state statute protecting the public's interest in the charitable assets and continuing charitable benefits following nonprofit hospital conversions. Mr. Modisett explained that it is not necessary to ban such transactions, but that regulation is important to protect the charitable assets and benefits. Mr. Modisett discussed the proposed amendments to HB 1334 including a Hospital Conversion Board with local involvement, and public notice requirements. He stated that scrutiny is important in nonprofit to for-profit transactions when the resulting for-profit is not required to have a charitable benefits plan. He explained that scrutiny is not necessary with nonprofit to nonprofit transactions because the resulting nonprofit is still required to have a charitable benefits plan.

In response to questions from Rep. Crawford, Rep. Goeglein and Sen. Blade, Mr. Modisett stated the following:

(a) Local input would come from locally appointed members of the proposed Hospital Conversion Board.
(b) The proposed legislation is to protect the public's interest in charitable assets and care and this is partly achieved through public notice and disclosure and the local input.
(c) The proposed legislation is not intended to prevent good mergers, but to protect the charitable assets of the community.
(d) The Attorney General's office does not need involvement if there is a more appropriate place for the regulatory function to reside.
(e) Attorneys General in other states make final determinations regarding such transactions because consumer protection is the goal of this regulation.

Mitch Roob, Health and Hospital Corporation of Marion County, explained that protection/valuation of nonprofit assets, administration of any resulting trust, and continuation of charitable care are the primary concerns. In response to comments from Representatives Goeglein and Crawford, Mr. Roob stated that state oversight of transactions involving nonprofit hospitals, which have been exempt from taxation due to state exemptions, is important. He acknowledged that local involvement is also necessary.

[1]Copies of the handouts are on file in the Legislative Information Center, 200 W. Washington St, Suite 301, Indianapolis, Indiana 46204. The telephone number of the Legislative Information Center is (317) 232-9856.

Tim Kennedy, Indiana Hospital and Health Association, stated that the concerns that initially produced this legislation no longer exist with the dilution of Columbia HCA. He explained that adoption of statutes regulating these transactions has slowed across the nation. Mr. Kennedy provided a handout of American Hospital Association Guidelines for Hospitals/Health System Leaders When Changing Ownership or Control.[2] Mr. Kennedy stated that Indiana hospitals have been educated about the guidelines and are voluntarily utilizing them, making the public and community aware of these transactions before they occur. In response to questions from Rep. Brown, Sen. Blade, Rep. Crawford, Sen. Lubbers, Rep. Goeglein, and Sen. Reigsecker, Mr. Kennedy stated the following:

> (a) The Nonprofit Corporations Act provides some protections such as requiring that board members observe their fiduciary duties in a transaction, and that federal law provides for nonprofits receiving fair market value for assets.
> (b) Hospitals are currently complying with the AHA guidelines, but there are state and federal laws which address transactions.
> (c) Current law does not mandate actions taken by the resulting for profit entity with respect to the charitable assets, but under the Nonprofit Corporations Act, the nonprofit must appropriately prepare the charitable assets prior to the transaction.
> (d) The issue is really indigent care, not Medicare or Medicaid care, and proceeds realized from transactions should go back to the community; (e) Resulting charitable foundations must be separate from resulting for profit entities instead of funding the entity as in the past (AHA guidelines), federal tax laws govern the charitable foundations.
> (f) Acceptance of the AHA guidelines has been universal from Indiana Hospital and Health Association members, but is not mandatory for membership in the Association.

Ann Doran, Quorum Health Group, stated that Quorum is the largest manager of nonprofit hospitals in the United States and acts as a good corporate citizen. She stated that regulation of these transactions is not necessary and that 90% of hospital acquisitions were nonprofit to nonprofit in 1997.

Bruce Melchert, Clarian Health Partners, Inc., stated that statutory regulation is not needed. He stated that this conclusion was reached in part due to the success of the Methodist/IU merger.

In response to a question from Rep. Brown, Mr. Modisett stated that the proposed legislation provides broader protection and ensures that the public knows the final terms of the transaction.

Children's Health Insurance Program (CHIP)

Rep. Brown asked Jim Hmurovich, Assistant Secretary, Division of Family and Children,

[2]A copy of the handout is on file in the Legislative Information Center (see footnote 1).

Family and Social Services Administration, to begin his testimony. Mr. Hmurovich distributed a folder containing handouts regarding CHIP.[3] He mentioned the successes to date, and discussed the plans for remaining work. Mr. Hmurovich discussed increased numbers of enrollment centers, outreach plans, increased numbers of Hoosier Healthwise members and calls, increased numbers of Benefits Advocates, and discussions with school officials and school nurses. He talked about the barriers that remain for which the Division is awaiting federal guidance, and the need for further collaboration on the Program. Mr. Hmurovich discussed the change from providing welfare to providing service. In response to questions from Rep. Brown, Sen. Reigsecker, and Rep. Crawford, Mr. Hmurovich stated the following:

(a) 40,000 children will be enrolled by the end of the year.
(b) FSSA is the only body that can approve eligibility, and the process ranges from one week to one month from application to approval.
(c) A plan is anticipated by the end of the week to solve problems with enrollment follow up in hospitals.
(d) Work is proceeding on consolidating the application processes of the various programs so that individuals complete minimal applications.

Steve McCaffrey, Mental Health Association in Indiana, Inc., referred to the recommendations of the Benefits and Cost Sharing Subcommittee to the Governor's Task Force on CHIP. He discussed the mental health aspect of the recommendations, and introduced Beth Karnes, Indiana Mental Health Memorial Foundation, Inc. Ms. Karnes distributed a copy of her testimony.[4] She discussed mental health parity and the need for early treatment of children for mental health conditions to avoid further problems as the children become adults. In response to questions from Rep. Brown, Sen. Worman, Sen. Mills, and Rep. Crawford, Mr. McCaffrey and Ms. Karnes stated the following:

(a) Mental illnesses should be covered at the same level as physical illnesses, and that the subcommittee recommendations limit the mental health benefits to 45 outpatient visits per year and 14 inpatient days per year.
(b) Mental health benefits as recommended by the subcommittee do not rise to the level of parity.
(c) Mental health parity for state employee health benefits may be addressed in the next contract.
(d) Delivery mechanisms for mental health are not yet established; (e) there are greater benefits in the Medicaid group than in the ">150% poverty group".
(f) The decision needs to be made regarding whether more children will be covered with less benefits, or less children will be covered with greater benefits.

Rozann Rothman, Council of Volunteers and Organizations for Hoosiers With Disabilities, distributed a copy of her testimony and a handout regarding Medicaid

[3]A copy of the folder is on file in the Legislative Information Center (see footnote 1).

[4]A copy of the handout is on file in the Legislative Information Center (see footnote 1).

waiver services.[5] In response to questions from Rep. Brown and Rep. Crawford, Ms. Rothman stated the following:

> (a) The Dawn Project has been in place for approximately 2-3 years and that reports on the project have been filed.
> (b) The budget bill proposal that she makes would state that agencies with public health monies are authorized to coordinate services.

Virginia Caine, M.D., Marion County Health Department, distributed a copy of her testimony.[6] Dr. Caine stated that coordination of state health policy and services is necessary for success.

Jim Jones, Indiana Council of Mental Health Centers, discussed the Benefits subcommittee report and stated that the acute care benefit for mental health is not sufficient and discriminates against those who are seriously emotionally disturbed. Mr. Jones stated that the only program available for the seriously emotionally disturbed is the Hoosier Assurance Plan which covers slightly more than 10,000 individuals. He discussed the structure of mental health service delivery and stated that he would hope to coordinate all mental health benefits under one administration if that was determined to be the best method of providing services. In response to questions from Rep. Brown, Sen. Lubbers and Rep. Crawford, Mr. Jones stated the following:

> (a) Discrimination arises from the amount of coverage recommended by the subcommittee, which is not adequate for one crisis episode of a seriously emotionally disturbed individual.
> (b) It has been stated that there is more money available than "could ever be used by children eligible for CHIP". The additional funds could be utilized.
> (c) The managed care concept is working fairly well with the Hoosier Assurance Plan.
> (d) There is a significant gap between care for the seriously emotionally disturbed and those who are not seriously emotionally disturbed.

Joseph Caldwell, Indiana Minority Health Coalition, stated that problems continue with deficient minority care in Indiana and that CHIP will assist in solving those problems. He discussed current barriers in the Hoosier Healthwise program such as high autoassignment rates, low utilization rates, and low number of providers. He stated that support should be given to a broad range of changes in the current administration of health care services.

B.J. Isaacson, Indiana Primary Health Care Association, reinforced the importance of friendliness to patients and providers as CHIP is implemented.

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[5]Copies of the handouts are on file in the Legislative Information Center (see footnote 1).

[6]A copy of the handout is on file in the Legislative Information Center (see footnote 1).

Medicare Update

Liz Carroll, Chief Deputy Commissioner, Indiana Department of Insurance, explained that within six weeks the Health Care Financing Administration will send a letter to all Medicare beneficiaries regarding the Medicare+ Choice program. She stated that the Department of Insurance is preparing to respond to the anticipated consumer questions regarding the letter. Ms. Carroll introduced Grace Chandler, Senior Health Insurance Information Program. Ms. Chandler distributed several handouts regarding the Department's preparations.[7] She discussed informational presentations which will occur in November 1998 and stated that the Department would serve as an information resource regarding Medicare+ Choice.

With no further business to discuss, Rep. Brown adjourned the meeting.

[7]Copies of the handouts are on file in the Legislative Information Center (see footnote 1).